

EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
-----X

This Document Relates To:

-----X
KENNETH M. KRYS, et al. : Case No. 08-cv-7416 (JSR)
Plaintiffs, :
-against- : ECF Filed
ROBERT AARON, et al., :
Defendants. : **REQUEST FOR ENTRY OF**
: **DEFAULT AND**
: **CLERK'S CERTIFICATION**
-----X

TO: CLERK OF THE COURT
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Please enter a default on the above-referenced dockets and execute a certificate of default for Third-Party Defendant Christopher Sugrue, pursuant to Local Civil Rule 55.1 and Federal Rule of Civil Procedure 55(a), for Third-Party Defendant's failure to plead or otherwise defend the above-captioned action, as fully appears from the court file herein and from the attached declaration of B. John Pendleton, Jr..

Dated: Florham Park, New Jersey
December 1, 2011

Respectfully submitted,
DLA PIPER LLP (US)

By: s/ B. John Pendleton, Jr.

B. John Pendleton, Jr.

300 Campus Drive, Suite 100

Florham Park, New Jersey 07932

Telephone: 973-520-2561

Facsimile: 973-520-2581

john.pendleton@dlapiper.com

Attorneys for Defendants/Third Party

Plaintiffs Derivative Portfolio Management,

LLC, Derivative Portfolio Management, Ltd,

DPM-Mellon, LLC, DPM-Mellon, Ltd. and

Guy Castranova

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: IN RE: REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
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KENNETH M. KRYS, et al.	: Case No. 08-cv-7416 (JSR)
	: .
Plaintiffs,	: .
	: .
-against-	: .
	: .
	: ECF Filed
	: .
ROBERT AARON, et al.,	: .
	: .
Defendants.	: .
	: .
	: <u>CLERK'S CERTIFICATION</u>
	: .
-----X	

I further certify that the docket entries indicate that Third-Party Defendant Christopher Sugrue has not filed an answer or otherwise moved with respect to the Third-Party Complaint

herein. The default of the aforementioned third-party defendant is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: New York, New York
December __, 2011

RUBY J. KRAJICK
Clerk of the Court

By: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
-----X

This Document Relates To:

-----X
KENNETH M. KRYS, et al. : Case No. 08-cv-7416 (JSR)
Plaintiffs, :
-against- : ECF Filed
ROBERT AARON, et al., :
Defendants. : **DECLARATION OF**
 : **B. JOHN PENDLETON, JR.**
 : **IN SUPPORT OF REQUEST**
 : **FOR ENTRY OF DEFAULT**
 : **AND CLERK'S CERTIFICATE**
-----X

B. John Pendleton, Jr. declares as follows:

1. I am a partner at the law firm of DLA Piper LLP (US), counsel for Defendants/Third-Party Plaintiffs Derivative Portfolio Management, LLC, Derivative Portfolio Management, Ltd, DPM-Mellon, LLC, DPM-Mellon, Ltd. and Guy Castranova in the above-captioned action, and admitted to practice before this Court. I have personal knowledge of the matters set forth herein. I respectfully submit this declaration in support of Defendants'/Third-Party Plaintiffs' Request for Entry of Default and Clerk's Certificate of Default.
2. On August 15, 2011 Defendants/Third-Party Plaintiffs filed an Amended Answer, Affirmative Defenses, Counterclaims and Third-Party Complaint.

3. On October 7, 2011, this Court entered an Order authorizing service of Summons and Complaint on Third-Party Defendant Christopher Sugrue via international courier and electronic mail, pursuant to Federal Rule of Civil Procedure. 4(f)(3). A true and accurate copy is annexed hereto as **Exhibit A**.

4. On November 3, 2011 Defendants/Third-Party Plaintiffs filed an Affidavit of Service of Summons and Complaint upon Third-Party Defendant Christopher Sugrue. A true and accurate copy is annexed hereto as **Exhibit B**. The affidavit of service stated that Mr. Sugrue was served via email on October 11, 2011, giving him twenty days to answer, move or otherwise respond, or until November 1, 2011.

5. Third-Party Defendant Christopher Sugrue has neither answered, moved, nor otherwise responded to the Third-Party Complaint.

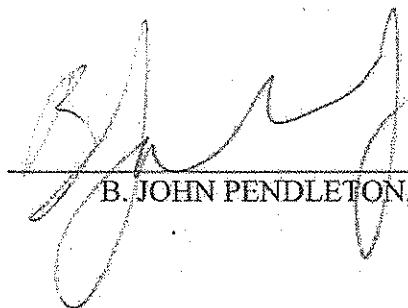
6. Jurisdiction was properly obtained over Third-Party Defendant Christopher Sugrue by serving him with a copy of the Amended Answer, Affirmative Defenses, Counterclaim and Third-Party Complaint via e-mail. See **Exhibit B**.

7. Third-Party Defendant Sugrue is not an infant, in the military, or an incompetent person.

8. I declare under the penalty of perjury that the foregoing is true and correct.

WHEREFORE, Defendants/Third-Party Plaintiffs respectfully request that the Clerk of this Court enter the default by Third-Party Defendant Sugrue and issue a certificate for default of said third-party defendant.

Dated: December 1, 2011



B. JOHN PENDLETON, JR.

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: REFCO SECURITIES LITIGATION	X	
	:	07 MDL 1902 (JSR)
	:	
KENNETH M. KRYS, <i>et al.</i>	X	
	:	08 Civ. 7416 (JSR)
Plaintiffs,	:	
-against-	:	ORDER AUTHORIZING
	:	SERVICE OF SUMMONS AND
	:	COMPLAINT ON DEFENDANT
ROBERT AARON, <i>et al.</i> ,	:	CHRISTOPHER SUGRUE
	:	PURSUANT TO FED. R. CIV. P.
Defendants.	:	4(f)(3)
	X	

Upon the application of Defendants/Third Party Plaintiffs Derivatives Portfolio Management, LLC, Derivative Portfolio Management, Ltd., DPM-Mellon, LLC, DPM-Mellon, Ltd., and Guy Castranova (collectively, the "DPM Defendants") for an order authorizing substitute service of the summons and complaint in this action on defendant Christopher Sugrue pursuant to *Fed. R. Civ. P.* 4(f)(3):

IT IS HEREBY ORDERED that DPM Defendants may serve Mr. Sugrue by international courier service at Av. Amílcar Cabral No. 110-2, Ed. Sonangol Distribuidora, Luanda, Angola and by electronic mail at chris.sugrue@yahoo.com.sg; and it is

FURTHER ORDERED that DPM Defendants shall serve Mr. Sugrue with a signed copy of this order along with the summons and complaint.

Honolulu, HI
Dated: Hackensack, NJ
Oct. 6, 2011


Hon. Ronald J. Hedges, Special Master

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
:
-----X
:
KENNETH M. KRYS, *et al.* : 08 Civ. 7416 (JSR)
:
Plaintiffs, :
:
against : AFFIDAVIT OF SERVICE
:
:
ROBERT AARON, *et al.*, :
:
Defendants. :
-----X

STATE OF NEW JERSEY)
) ss.:
COUNTY OF MORRIS)

Andrew O. Bunn, being duly sworn, deposes and says:

1. I am not a party to the above-captioned actions, am over 18 years of age and reside in Short Hills, New Jersey.

2. On October 6, 2011, Hon. Ronald J. Hedges, Special Master, entered an order authorizing substitute service of the summons and complaint in this action on third-party defendant Christopher Sugrue pursuant to *Fed. R. Civ. P.* 4(f)(3) (the "October 6, 2011 Order"). A true and accurate copy of that order is attached as Exhibit A.

3. Pursuant to the terms of the October 6, 2011 Order, on October 11, 2011, I caused to be served on Mr. Sugrue true and accurate copies of the following documents by Federal Express at Av. Amilar Cabral No 110-2, Ed. Sonangol Distribuidora, Luanda, Angola: (i) a cover letter; (ii) the first amended complaint commencing litigation in the Superior Court of New Jersey, Camden County, dated April 15, 2008; (iii) the amended answer, affirmative defenses, counterclaims, and third-party complaint, dated August 15, 2011; (iv) the federal summons naming Mr. Sugrue as a third-party defendant, dated August 15, 2011; and (v) the October 6, 2011 Order (collectively, the "Documents for Service").

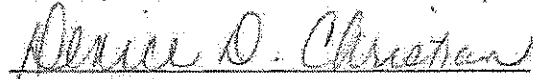
4. The Documents for Service did not reach their destination by Federal Express, as the tracking results indicate that delivery was not successful by that method. A true and accurate copy of the Federal Express tracking report is attached as Exhibit B.

5. Pursuant to the terms of the October 6, 2011 Order, on October 11, 2011, I also caused true and accurate copies of the Documents for Service to be served on Mr. Sugrue by electronic mail at chris.sugrue@yahoo.com.sg. A true and accurate copy of that electronic mail message is attached as Exhibit C.

6. I did not receive any subsequent electronic mail messages indicating that chris.sugrue@yahoo.com.sg is not a valid electronic mail address or that that the October 11, 2011 electronic message was otherwise undeliverable.


Andrew O. Bunn

Sworn to before me this
3rd day of November, 2011


Notary Public

DENICE D. CHRISTIAN
A Notary Public of New Jersey
No. 2358370
My Commission Expires April 9, 2012

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____X	:	
IN RE: REFCO SECURITIES LITIGATION	:	07 MDL 1902 (JSR)
_____X	:	
_____X	:	
KENNETH M. KRYSS, <i>et al.</i>	:	08 Civ. 7416 (JSR)
	:	
Plaintiffs,	:	
	:	ORDER AUTHORIZING
-against-	:	SERVICE OF SUMMONS AND
	:	COMPLAINT ON DEFENDANT
ROBERT AARON, <i>et al.</i> ,	:	CHRISTOPHER SUGRUE
	:	PURSUANT TO FED. R. CIV. P.
Defendants.	:	4(f)(3)
_____X	:	

Upon the application of Defendants/Third Party Plaintiffs Derivatives Portfolio Management, LLC, Derivative Portfolio Management, Ltd., DPM-Mellon, LLC, DPM-Mellon, Ltd., and Guy Castranova (collectively, the "DPM Defendants") for an order authorizing substitute service of the summons and complaint in this action on defendant Christopher Sugrue pursuant to *Fed. R. Civ. P. 4(f)(3)*:

IT IS HEREBY ORDERED that DPM Defendants may serve Mr. Sugrue by international courier service at Av. Amílcar Cabral No 110-2, Ed. Sonangol Distribuidora, Luanda, Angola and by electronic mail at chris.sugrue@yahoo.com.sg; and it is

FURTHER ORDERED that DPM Defendants shall serve Mr. Sugrue with a signed copy of this order along with the summons and complaint.

Honolulu, HI
Dated: Hackensack, NJ
Oct. 6, 2011


Hon. Ronald J. Hedges, Special Master

EXHIBIT B



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Enter tracking number

Detailed Results		Notifications	
Tracking no.: 873690132982		Select time format: 12H 24H	
In transit Map Picked up In transit Delivered Delivery exception LUANDA AO			
Shipment Dates Ship date: Oct 11, 2011		Destination LUANDA AO	
Shipment Facts Help Service type: Intl Economy Pak Weight: 1.8 lbs/0.8 kg			
Shipment Travel History Help Select time zone: Local Seen Time All shipment travel activity is displayed in local time for the location.			
Date/Time	Activity	Location	Details
Oct 26, 2011 12:22 PM	Shipment exception	LUANDA AO	Destroyed at customer's request
Oct 26, 2011 11:24 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 26, 2011 11:23 AM	At local FedEx facility	LUANDA AO	
Oct 26, 2011 11:52 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 26, 2011 11:49 AM	At local FedEx facility	LUANDA AO	
Oct 24, 2011 10:34 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 24, 2011 10:31 AM	At local FedEx facility	LUANDA AO	
Oct 21, 2011 12:02 PM	Delivery exception	LUANDA AO	Incorrect address
Oct 21, 2011 12:00 PM	At local FedEx facility	LUANDA AO	
Oct 21, 2011 10:59 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 21, 2011 10:55 AM	At local FedEx facility	LUANDA AO	
Oct 20, 2011 12:59 PM	Delivery exception	LUANDA AO	Incorrect address
Oct 20, 2011 12:37 PM	At local FedEx facility	LUANDA AO	
Oct 19, 2011 11:10 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 19, 2011 11:09 AM	At local FedEx facility	LUANDA AO	
Oct 18, 2011 10:36 AM	Delivery exception	LUANDA AO	Incorrect address
Oct 18, 2011 10:35 AM	At local FedEx facility	LUANDA AO	
Oct 18, 2011 12:00 PM	Delivery exception	LUANDA AO	Incorrect address
Oct 18, 2011 8:35 AM	On FedEx vehicle for delivery	LUANDA AO	
Oct 17, 2011 3:17 PM	Delivery exception	LUANDA AO	Package at station, arrived after courier dispatch
Oct 17, 2011 2:51 PM	International shipment release	LUANDA AO	
Oct 17, 2011 2:44 PM	In transit	LUANDA AO	Package available for clearance
Oct 14, 2011 6:00 PM	In transit	PRIOIR VELHO PT	
Oct 14, 2011 8:16 AM	In transit	MADRID ES	
Oct 14, 2011 8:10 AM	In transit	MADRID ES	
Oct 14, 2011 4:07 AM	Departed FedEx location	PARIS FR	
Oct 13, 2011 9:52 PM	Departed FedEx location	PARIS FR	
Oct 13, 2011 9:14 PM	In transit	PARIS FR	
Oct 13, 2011 7:11 PM	Arrived at FedEx location	PARIS FR	
Oct 13, 2011 3:57 AM	Departed FedEx location	MEMPHIS, TN	
Oct 13, 2011 3:36 AM	In transit	MEMPHIS, TN	
Oct 13, 2011 12:02 AM	Departed FedEx location	MEMPHIS, TN	
Oct 11, 2011 7:38 PM	Picked up	EAST HANOVER, NJ	

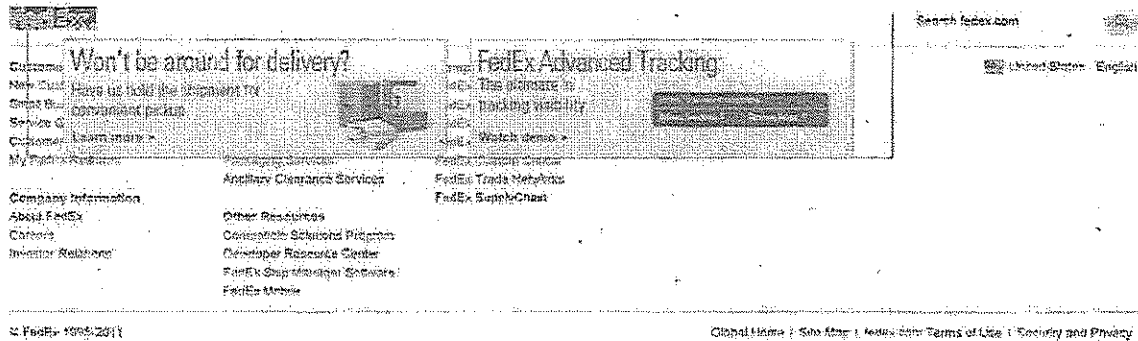


EXHIBIT C

Marino, Steven

From: Bunn, Andrew
Sent: Tuesday, October 11, 2011 3:23 PM
To: chris.sugrue@yahoo.com.sg
Cc: Pendleton, John; Gummer, Katie; Trimarco, Gina; Marino, Steven; 'whrefcokrysall@wilmerhale.com'; 'Ron Hedges'; 'Daniel Capra'
Subject: Krys, et al. v. Aaron, et al., 08 Civ. 7416(JSR)
Attachments: Christopher Sugrue Summons.pdf; First Amended Complaint.pdf; Amended Answer, Affirmative Defenses, Counterclaims, and Third-Party Complaint.pdf; Substitute Service Order for Sugrue.pdf; Letter to Sugrue.pdf

Dear Mr. Sugrue:

On behalf of Third Party Plaintiffs in the above-referenced litigation, I attach the following: (1) a cover letter; (2) the first amended complaint; (3) first amended answer, affirmative defenses, counterclaims, and third-party complaint; (4) summons; and (5) order directing substituted service.



Andrew O. Bunn
Partner

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T 973.520.2562

F 973.520.2582

M 718.772.4610

andrew.bunn@dlapiper.com

www.dlapiper.com | Bio

11/3/2011